

AMENDED IN SENATE MAY 21, 2012

AMENDED IN SENATE APRIL 30, 2012

SENATE BILL

No. 1488

Introduced by Senator Yee

February 24, 2012

An act to add and repeal Chapter 12.5 (commencing with Section 4979.1) of Division 2 of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 1488, as amended, Yee. Healing arts: *California* traditional Chinese Medicine traumatologist certification.

Existing law, the Acupuncture Licensure Act, establishes the Acupuncture Board and makes it responsible for enforcing and administering the act, including licensing persons who meet specified licensure requirements. Under the act, licensees are titled "acupuncturists," and are authorized to perform designated activities pursuant to their license. The unlawful practice of acupuncture and any other violation of the act is a crime.

This bill would establish the *California* Traditional Chinese Medicine Traumatology Council as a nonprofit organization to provide for the certification and regulation of the practice of *California* traditional Chinese Medicine traumatologists, as defined. The bill would require the council to issue a certificate to practice as a *California* traditional Chinese Medicine traumatologist to an applicant who meets certain training and clinical experience requirements and pays a specified fee. This bill would make the meetings and deliberations of the council subject to the open meeting requirements that apply to state bodies.

~~This bill would limit the timeframe for new applications to the period from January 1, 2013, to December 15, 2013. Thereafter, the council may only issue renewals of current certificates.~~

This bill would set forth procedures for the renewal of a certificate to perform *California* traditional Chinese Medicine traumatology and would establish specified fees in that regard.

This bill would also require specified treatment procedures to be performed under the supervision of an orthopedic surgeon and prohibit treatment that constitutes the practice of medicine or chiropractic procedures, as defined.

This bill would also make it an unfair business practice to use the title of “*California* certified traditional Chinese Medicine traumatologist” without meeting these certification requirements and would authorize the board to suspend or revoke a certificate for unprofessional conduct, certain fraudulent acts, or specified crimes committed by the certificate holder.

This bill would repeal these provisions on January 1, 2017, unless legislation is enacted before that date to remove or extend that deadline.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 12.5 (commencing with Section 4979.1)
2 is added to Division 2 of the Business and Professions Code, to
3 read:

4
5 CHAPTER 12.5. CALIFORNIA TRADITIONAL CHINESE MEDICINE
6 TRAUMATOLOGY
7

8 4979.1. As used in this chapter:

9 (a) ~~“Certified”~~ “*California certified* traditional Chinese Medicine
10 traumatologist” means a person who has been certified by the
11 *California* Traditional Chinese Medicine Traumatology Council
12 to perform *California* traditional Chinese Medicine traumatology.

13 (b) “Council” means the California Traditional Chinese
14 Medicine Traumatology Council.

15 (c) ~~“Traditional”~~ “*California traditional* Chinese Medicine
16 traumatology” includes a range of treatments to address both acute
17 and chronic musculoskeletal conditions, as well as many

1 nonmusculoskeletal conditions. Techniques include, but are not
2 limited to, brushing, kneading, rolling, pressing, and rubbing the
3 areas between each of the joints to open the body's defensive chi
4 and stimulate the energy movement in both meridians.

5 4979.3. (a) The California Traditional Chinese Medicine
6 Traumatology Council shall be established as a nonprofit
7 organization exempt from taxation under Section 501(c)(3) of the
8 Internal Revenue Code, for the purpose of developing standards
9 for, and certifying the practice of, *California* traditional Chinese
10 Medicine traumatology. The council may commence activities as
11 authorized by this section after submitting a request to the Internal
12 Revenue Service seeking the exemption.

13 (b) (1) The council shall consist of seven members, composed
14 of three representatives from the clinical settings of traumatology,
15 two representatives from the California Orthopaedic Association,
16 and one representative each from the Medical Board of California
17 and the California Medical Association.

18 (2) Representatives from the clinical settings of traumatology
19 shall be selected by professional societies, associations, or other
20 entities, whose memberships are comprised solely of practitioners
21 of *California* traditional Chinese Medicine traumatology.

22 (3) To qualify, a professional society, association, or entity shall
23 have a dues-paying membership in California of at least 30
24 individuals for the last three years and shall have bylaws that
25 require its members to comply with a code of ethics.

26 (c) (1) Subject to subdivision (e), the council shall meet and
27 confer to determine the certification standards, including the level
28 of experience and training needed for an individual to qualify for
29 ~~traditional Chinese Medicine traumatology~~ certification in
30 *California traditional Chinese Medicine traumatology*.

31 (2) The council shall develop the application form for
32 certification.

33 (3) The meetings and deliberations of the council shall be subject
34 to the provisions of the Bagley-Keene Open Meeting Act (Article
35 9 (commencing with Section 11120) of Chapter 1 of Part 1 of
36 Division 3 of Title 2 of the Government Code).

37 (d) The council shall issue a certificate for *California* certified
38 traditional Chinese Medicine traumatology to any person who
39 makes an application and meets all of the following requirements,
40 as determined by the council pursuant to subdivision (e):

1 (1) Is at least 18 years of age.

2 (2) Furnishes satisfactory evidence of training and clinical
3 experience that meets the standards established by the council.

4 (3) Is not subject to denial pursuant to Division 1.5 (commencing
5 with Section 475).

6 (e) The council shall evaluate whether an applicant meets the
7 certification standards, including the level of experience and
8 training to sufficiently qualify for the traumatology certification.

9 (f) An individual who is not qualified to receive a certificate
10 under this section, or who fails to apply for certification under this
11 section, shall not hold himself or herself out as a *California*
12 certified traditional Chinese Medicine traumatologist pursuant to
13 this section.

14 4979.4. (a) A *California* certified traditional Chinese Medicine
15 traumatologist, when engaging in traditional Chinese Medicine
16 traumatology manipulation techniques to realign the
17 musculoskeletal and ligamentous relationships, shall be supervised
18 by a physician and surgeon who has completed an orthopaedic
19 residency program. The extent of the relationship between a
20 *California* traditional Chinese Medicine traumatologist and an
21 orthopedic surgeon regarding those manipulation techniques shall
22 be determined by the council after the qualifications necessary for
23 certification are defined and adopted by the council.

24 (b) A *California* certified traditional Chinese Medicine
25 traumatologist shall not practice medicine, as defined in Section
26 2052.

27 (c) A *California* certified traditional Chinese Medicine
28 traumatologist shall not practice within the scope of activities
29 regulated by the State Board of Chiropractic Examiners.

30 4979.5. (a) An applicant for *California* traditional Chinese
31 Medicine traumatology certification shall, ~~commencing January~~
32 ~~1, 2013, until December 15, 2013,~~ file an application for a
33 certificate for *California* traditional Chinese Medicine traumatology
34 with the council.

35 ~~(b) On and after December 16, 2013, the council shall not issue~~
36 ~~an initial certificate to any applicant.~~

37 ~~(c) On and after December 16, 2013, the council may issue only~~
38 ~~a renewal of a certificate under this section.~~

39 ~~(d)~~

1 (b) An individual who is not qualified to receive a certificate
2 under this section, ~~or who fails to apply for certification under this~~
3 ~~section by December 15, 2013,~~ shall not hold himself or herself
4 out as a *California* certified traditional Chinese Medicine
5 traumatologist.

6 4979.6. An applicant for certification as a *California* traditional
7 Chinese Medicine traumatologist shall pay an application fee in a
8 reasonable amount, not to exceed two hundred dollars (\$200) for
9 the regulatory cost to the council of processing the application,
10 when submitting his or her application to the council.

11 4979.7. A *California* certified traditional Chinese Medicine
12 traumatologist shall renew his or her certificate every two years.

13 4979.8. An expired certificate may be renewed at any time
14 within six months after its expiration. The holder of the certificate
15 shall pay all accrued and unpaid renewal fees, plus a delinquency
16 fee.

17 (a) The renewal fee shall be one hundred dollars (\$100).

18 (b) The delinquency fee shall be twenty-five dollars (\$25).

19 (c) The fee for a duplicate or replacement engraved wall
20 certificate shall be fifteen dollars (\$15).

21 (d) The fee for a duplicate or replacement renewal receipt/pocket
22 certificate shall be ten dollars (\$10).

23 4979.9. Moneys received under this section shall be utilized
24 by the council to pay for the costs associated with administering
25 this chapter.

26 4979.10. It is an unfair business practice for any person to hold
27 himself or herself out as a *California* certified traditional Chinese
28 Medicine traumatologist or use the title of “~~certified~~ *California*
29 *certified* traditional Chinese Medicine traumatologist” without
30 meeting the requirements of this chapter.

31 4979.11. It is a violation of this chapter for a certificate holder
32 to commit, and the council may deny an application for a certificate
33 or suspend or revoke a certificate for, any of the following:

34 (a) Unprofessional conduct, including, but not limited to, denial
35 of licensure or certification, revocation, suspension, restriction, or
36 any other disciplinary action against a certificate holder by another
37 state or territory of the United States, by any other government
38 agency, or by another entity. A certified copy of the decision,
39 order, or judgment shall be conclusive evidence of these actions.

1 (b) Procuring a certificate by fraud, misrepresentation, or
2 mistake.

3 (c) Violating or attempting to violate, directly or indirectly, or
4 assisting in or abetting the violation of, or conspiring to violate,
5 any provision of this chapter or any rule or bylaw adopted by the
6 council.

7 (d) Conviction of any felony, or conviction of a misdemeanor
8 that is substantially related to the qualifications or duties of a
9 certificate holder, in which event the record of the conviction shall
10 be conclusive evidence of the crime.

11 (e) Impersonating an applicant or acting as a proxy for an
12 applicant in any part of the application process or any part of
13 satisfying the standards set by the council referred to under this
14 chapter for the issuance of a certificate.

15 (f) Impersonating a *California* certified traditional Chinese
16 Medicine traumatologist, or permitting or allowing an uncertified
17 person to use a certificate.

18 (g) Committing any fraudulent, dishonest, or corrupt act that is
19 substantially related to the qualifications or duties of a certificate
20 holder.

21 (h) Committing any act punishable as a sexually related crime.
22 4979.12. This chapter shall remain in effect only until January
23 1, 2017, and as of that date is repealed, unless a later enacted
24 statute, that is enacted before January 1, 2017, deletes or extends
25 that date.